

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

FRANK ACEVEDO,

Petitioner,

vs.

Civil Action 2:16-cv-644
Criminal No. 2:05-cr-0152(9)
Judge Graham
Magistrate Judge King

UNITED STATES OF AMERICA,

Respondent.

ORDER

Petitioner Frank Acevedo, also known as Juan Manuel Martinez Guzman,¹ filed a *Motion to Vacate under 28 U.S.C. § 2255*, invoking the decision of the United States Supreme Court in *Johnson v. United States*, – U.S. –, 135 S.Ct. 2551 (2015). In response, the United States moved to dismiss the action as without merit. *United States' Motion to Dismiss § 2255 Petition*, ECF No. 382. Petitioner filed no response to the motion to dismiss. On October 14, 2016, the United States Magistrate Judge recommended that the motion to dismiss be granted. *Report and Recommendation*, ECF No. 383. Although the parties were advised of their right to object to that recommendation, and of the consequences of their failure to do so, there has been no objection.

The report and recommendation, ECF No. 383, is **ADOPTED AND AFFIRMED**. The United States' motion to dismiss, ECF No. 382, is

¹ The *Superseding Indictment*, ECF No. 40, names as a defendant "FRANK ACEVEDO, AKA, Juan Manuel Martinez Guzman." PageID# 174.

GRANTED. The motion to vacate, ECF No. 378, is denied. This action is hereby **DISMISSED.**

The Clerk is **DIRECTED** to enter **FINAL JUDGMENT.**

Date: November 8, 2016

____s/James L. Graham____
James L. Graham
United States District Judge